

The Wang et al. reference discloses a garment, such as a shirt, having a collar 36. Clearly a collar of a garment could not be considered to be the equivalent of a fabric surgical mask, and therefore Applicant assumes the Examiner is equating the collar 36 in the Wang et al. reference as somehow being the equivalent of a "neckband." Applicant recognizes that the Examiner is required to give all claim limitations their broadest reasonable interpretation, but for the term "neckband" it is not even necessary to decide whether a person of ordinary skill in the relevant technology would consider a "collar" to be the equivalent of a "neckband." Applicant is using the term "neckband" in the claims according to its ordinary dictionary definition, and Applicant submits that the average person, if asked whether a "collar" is the same as a "neckband," would quickly answer "no." A collar, by definition, requires that it be attached to some other garment, such as the shirt in the example disclosed in the Wang et al. reference. There is no information in the Wang et al. reference that the shirt described therein, or the collar thereof, is intended to be any type of specially-designed garment. At column 5, lines 43-46 of the Wang et al. reference, it is stated that the collar 36 can be included for the purpose of styling the garment member 32 and concealing components of the interface 30. This clearly means that if the collar is to have the capability of concealing the components, it must be attached to the remainder of the garment, so that it can be folded over at the neck opening so as to have the capability of concealing the aforementioned components.

Moreover, the aforementioned concealment is accomplished simply because of the standard design of the collar 36. There is no disclosure or suggestion of the

use of a pocket for any audio component. Moreover, as can be clearly seen in Figure 2, the speakers 42 and 44 are simply loosely located beneath the collar 36.

Alternatively, if the Examiner is simply considering the neck opening 34 of the garment member 32 to be a "neckband," the configuration of such a neck opening clearly precludes the presence of any pocket therein.

In order for anticipation of a patent claim to be found under 35 U.S.C. §102(b), it is necessary for the relied-upon reference to expressly or inherently disclose all of the elements of the patent claim, as arranged and operating in the claim. A claim is anticipated only if each and every limitation is found either expressly or inherently in a single prior art reference. *Union Carbide Chemicals & Plastics Technology Corp. v. Shell Oil Co.*, 64 U.S.P.Q.2d 1545, 1560 (Fed. cir. 2000); *Bristol Myers-Squibb Co. v. Ben Venue Labs, Inc.* 246 F.3d 1368, 1374, 58 U.S.P.Q.2d 1508, 1512 (Fed. Cir. 2001).

In view of the absence of a neckband in the Wang et al. reference, and in view of the absence of a pocket in that reference in which a microphone is located, the Wang et al. reference clearly does not anticipate either of independent claims 1 or 8, or any of the claims depending therefrom.

Claims 1, 3 and 7 were rejected under 35 U.S.C. §102(b) as being anticipated by Ingalls. This rejection is respectfully traversed for the following reasons.

Applicant acknowledges that the Ingalls reference discloses a neckband, but there is no information whatsoever in the Ingalls reference regarding the composition of the material of the neckband. Specifically, there is no teaching in the Ingalls reference that the neckband disclosed therein is, or, or could be, a fabric neckband. Moreover, the microphone in the Ingalls reference is contained in its own housing,

which is *attached to* the neckband, such as by screws 22. Even if the housing of the microphone might be generally considered by the Examiner to be a type of "pocket," independent claim 1 requires a *fabric* garment having a pocket *therein*. This clearly means that the pocket itself is not only a part of the fabric garment, but, being a part thereof, must necessarily also be formed of fabric.

Moreover, the microphone disclosed in the Ingalls reference is a type of microphone known as a "contact microphone," which, as explained at column 1, lines 12-13, is adapted to engage the *throat* or other vibrating *body portion* adjacent to the larynx of a wearer. The fact that the microphone disclosed in the Ingalls reference is such a contact microphone is explicitly stated at column 2, line 6 of the Ingalls reference. Placing such a contact microphone in a fabric pocket would be contrary to accomplishing the result in the Ingalls reference, which is to achieve the aforementioned contact with the throat or a body portion adjacent to the larynx.

Applicant acknowledges that claim 3 of the present application states that the microphone can be a larynx microphone, however, only the present Applicant, rather than the inventor in the Ingalls reference, has had the insight to recognize that a larynx microphone can be carried in a pocket in a fabric neckband without impairing its ability to pick up voice signals. The Ingalls reference proceeds on an opposite premise, namely that contact with the throat or a body portion adjacent to the larynx is necessary. This premise is clearly stated in the Abstract of the Ingalls reference, which states that the throat microphone has an outer resonant diaphragm which is adapted to be secured against the throat of a wearer. Moreover, it is explicitly stated that this outer resonant diaphragm cooperates with a housing to form an outer

chamber. Clearly, no such function could be accomplished by a fabric pocket in a fabric garment.

In view of the aforementioned requirements for anticipation expressed in the above-cited decisions of the Federal Circuit, none of claims 1, 3 or 7 is anticipated by the Ingalls reference.

Claims 2 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wang et al.

Claims 2 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wang et al. Applicant assumes the Examiner intended to include claims 2 and 7 in this rejection, rather than claims 2 and 8, because in the substantiation of this rejection the Examiner referred to the use of a filter for suppressing disturbing signals, and this language is in claim 7 of the present application, rather than in claim 8.

As such, the rejection of claims 2 and 7 is respectfully traversed for the same reasons discussed above in connection with the rejection of claim 1, from which claims 2 and 7 depend, based on Wang et al.

As discussed above, Applicant does not agree that the Wang et al. reference discloses, either expressly or inherently, the subject matter of claim 1. Moreover, there is no teaching in the Wang et al. reference to replace the collar with a neckband or a fabric surgical mask, nor to modify the collar of the Wang et al. reference to include a pocket therein. Since dependent claims 2 and 7 embody the subject matter of claim 1 therein, and since there is no teaching in the Wang et al. reference to make any of the aforementioned modifications, the subject matter of claims 2 and 7 would not have been obvious to a person of ordinary skill in the

relevant technology under the provisions of 35 U.S.C. §103(a), based on the teachings of Wang et al.

The Examiner stated claim 11 is rejected under 35 U.S.C. §103(a) "as being unpatentable over claim 8 above in view of Murphy et al."

Applicant assumes this means that claim 11 is rejected under 35 U.S.C. §103(a) as being unpatentable over Wang et al. in view of Murphy et al., since the Wang et al. reference was the only reference that was properly relied upon to reject claim 8. Since claims 13, 15 and 17-19 were explicitly rejected under 35 U.S.C. §103(a) as being unpatentable over Wang et al. in view of Murphy et al., Applicant will respond to all of those rejections collectively. The Examiner relied on the Murphy et al. reference as disclosing voice control of a medical-technical device. Applicant does not disagree that this basic teaching is present in the Murphy et al. reference, and could be found in any number of references. Nevertheless, the specific structure (a fabric garment selected from the group consisting of a fabric neckband and a fabric surgical facemask, having a pocket therein in which a microphone is removably contained) is nowhere disclosed or suggested in the Murphy et al. reference, and for the reasons discussed above such a structure is not disclosed or suggested in the Wang et al. reference. Modifying the Murphy et al. reference in accordance with the teachings of Wang et al. would simply result in a medical device controlled by a person wearing a garment as shown in Figure 2 of the Wang et al. reference, with the audio system loosely carried around and beneath the collar or such a garment. Such a combination does not conform to the language of independent claim 8, from which each of claims 11, 13, 15 and 17-19 depend. Even if the Wang et al. reference were modified in accordance with the teachings of

Murphy et al., therefore, the subject matter of those dependent claims still would not result.

Claims 16 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wang et al. and Murphy et al., further in view of Ingalls. The above discussion of the Ingalls reference is applicable to this rejection as well, and for the reasons discussed above Applicant submits that even if a combination of the teachings of Wang et al. and Murphy et al. were further modified in accordance with the teachings of Ingalls, the subject matter of claims 16 and 20 still would not result. It is not even seen how the arrangement of the audio components in the Wang et al. reference is even physically compatible with the contact microphone disclosed in the Ingalls reference. It seems that these are two mutually exclusive ways of maintaining a microphone in the proximity of the throat of a person, but neither of these mutually exclusive alternatives conforms to the language of independent claim 8 from which claims 16 and 20 depend.

All claims of the application are therefore submitted to be in condition for allowance, and early reconsideration of the application is respectfully requested.

Submitted by,

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